



STATE OF NEW YORK DEPARTMENT OF HEALTH

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REDUCTION OF BENEFITS NOTICE **NEW IMPORTANT INFORMATION** **FOR INDIVIDUALS WHO RECEIVE BOTH MEDICARE AND MEDICAID**

Effective January 1, 2006, Medicare, *not Medicaid*, will pay for most of your prescription drugs. This is because the federal government has established a permanent prescription drug program for Medicare beneficiaries called the Medicare Part D Prescription Drug Program. This program is based on Section 1935 (d)(1) of the Social Security Act, requiring Medicaid to stop paying for prescription drugs as soon as Medicare starts to pay.

By now you should have received a yellow letter from the Centers for Medicare and Medicaid Services (CMS) with information about the Medicare prescription plan chosen for you. **Please keep this important letter.** If this plan covers your medicines, you do not need to take any action and you can use this plan to get your prescriptions beginning January 1, 2006. But you may also join a different plan if you prefer. If you choose to join a different plan, you need to do so before December 31, 2005 or you will be automatically assigned to the plan chosen for you by CMS. Because you have both Medicare and Medicaid coverage, you can also change plans at any time after January 1, 2006.

If you do not participate in a Medicare prescription drug plan, you may lose all your Medicaid benefits. However, some people on Medicare and Medicaid may receive a letter from their employer or union stating that if they enroll in Medicare Part D they will lose the health care benefits provided by the union or employer. If you have received this letter, you may disenroll from the Medicare Prescription Drug program by calling 1-800-MEDICARE. You must also give a copy of this letter to your Medicaid worker in order to continue your Medicaid benefits. In some cases, you may have to re-enroll in Part D in order to continue to receive Medicaid.

Your Medicare drug plan will send you information about their services and a prescription membership card. Starting on January 1, 2006, you must use this Medicare plan card at a participating pharmacy to get your prescriptions. You will have to pay a small co-payment for each prescription under the Medicare drug plan, usually \$1 or \$3. Medicaid will no longer pay for most of your prescriptions, or your co-payments. If you live in a medical facility, like a nursing home, you will not have to pay a co-payment. Medicaid will continue to cover a few specific drugs such as benzodiazepines, barbiturates and certain over-the-counter medications.

All Medicare Part D prescription drug plans must have a process for you to obtain medically necessary drugs that they do not cover. Medicare prescription plans are required to provide you at least a short-term supply of medications you are currently taking (usually one month supply). But if you find that your new Medicare prescription plan will not cover a medically necessary drug you take, you should talk to your provider (your doctor, clinic, etc). They can decide whether another drug, covered by the prescription plan, will work as well instead.

If your provider thinks that you should not change medications, then either you or your provider must contact your Medicare prescription plan to ask for an "exception". Your doctor will need to provide information to the plan about why you need this specific drug.

If the plan denies your exception request, you can appeal the plan's decision. Contact your plan directly or review your plan's handbook for directions on filing an appeal. You, your prescribing physician or other appointed representative can file an appeal on your behalf.

In some circumstances New York State Medicaid may pay for your prescription drugs if you or your doctor have requested an exception from your Medicare prescription plan, and the plan has denied approval for the medicine. If this occurs, your provider can contact the Medicaid program and confirm that your Medicare plan has already denied coverage of a specific prescription drug. Only your provider can complete this process; they will be sent detailed information about how to request approval for Medicaid coverage.

Individuals who participate in the "spenddown" program to qualify for Medicaid may find that they have more available income with Medicare paying for their prescriptions drugs. Such individuals may use any out-of-pocket costs for items such as Part D premiums, coinsurance, deductibles, or co-payments as well as other non-prescription medical expenses to meet their spenddown requirement.

If you are not sure what plan Medicare has chosen for you, or if you want help in selecting another prescription plan, call 1-800-MEDICARE (1-800-633-4227). Be sure to have your Medicare card ready when you call, so you can provide your identification information. You may also want to have a list of your current medicines handy. TTY users should call 1-800-486-2048.

If you need more help, you can also call your county's Health Insurance Information, Counseling and Assistance Program (HIICAP). Call the MRC-HIICAP Hotline at 1-800-333-4114. In New York City, you can reach the MRC-HIICAP at 212-869-3850.

You have the right to an appeal if you think the law does not apply to you or if you think we do not have the right information about you. If you ask for an appeal because you think the law is wrong, your appeal will be decided without a hearing. If you want to appeal this action, please read the back of this letter.

RIGHT TO A CONFERENCE OR FAIR HEARING

RIGHT TO A CONFERENCE: You may have a conference to review this action. If you want a conference you should ask for one as soon as you can. At the conference, if we find that we took the wrong action or if you give us new facts that cause us to change our decision, we will give you a new notice. You may ask for a conference by calling or sending a written request to your local social services department. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: These changes in your Medical Assistance coverage are based on changes in state law and policy. You have a right to a fair hearing if you think we made a mistake, but not just because you think the new law or policy is unfair. The hearing officer at the hearing may decide that you do not have a right to a hearing if the only issue at the hearing is the change in law or policy.

If you live anywhere in New York State, you may request a Fair Hearing by telephone, fax, online, or by writing to the address below.

Telephone: Statewide toll-free request number is 800-342-3334. Please have this notice with you when you call.

Online: Complete online request form at <http://www.otda.state.ny.us/oah/forms.asp>

In writing: Fill in the space below and send a copy of this notice to:

Fair Hearing Section
NYS Office of Temporary and Disability Assistance
Fair Hearings
P.O. Box 22023
Albany, New York 12201-2023

Please keep a copy for yourself.

Fax: Send a copy of this notice to (518) 473-6735.

If you live in NYC, you may also make your request in person by walking into the offices listed below.

Walk-In (NYC ONLY): Bring a copy of this notice to the Office of Administrative Hearings, of the Office of Temporary & Disability Assistance, 14 Boerum Place, Brooklyn, New York, or 330 W. 34th Street, 3rd Fl., New York, NY.

☐ **I want a Fair Hearing.** This action is wrong because _____

Client Signature: _____ Client print name here: _____

Client Address: _____

Phone Number: _____ Case Number: _____ CIN Number: _____

YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

CONTINUING YOUR BENEFITS: If you request a fair hearing before the effective date stated in this notice, you will continue to receive your benefits unchanged under certain circumstances. Your benefits will not be continued pending the appeal decision when the sole issue is the change in law. If the appeal is for other reasons, such as the application of the law to your situation, or if there is another factual issue, then your benefits will be continued pending the decision. However, if you lose the fair hearing, we may recover the cost of any Medical Assistance benefits that you should not have received. If you want to avoid this possibility, check the box below to indicate that you do not want your aid continued, and send this page along with your hearing request. If you do check the box, the action described above will be taken on the effective date listed above.

☐ I agree to have the action taken on my Medical Assistance benefits, as described in this notice, prior to the issuance of the fair hearing decision.

LEGAL ASSISTANCE: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under “Lawyers” or by calling the number indicated on the first page of this notice.

ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file, which we will give to the hearing officer at the fair hearing. Also, if you call or write to us, we will provide you with free copies of other documents from your file, which you think you may need to prepare for your fair hearing. To ask for documents or to find out how to look at your file, call us at the Record Access telephone number listed at the top of page 1 of this notice or write us at the address printed at the top of page 1 of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

FOR MORE INFORMATION ON YOUR CASE: If you want to see your file, to find out how to ask for a Fair Hearing or to find out how to ask for copies of your file, contact your local Department of Social Services or, in NYC, contact the NYC Human Resources Administration.